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In the Supreme Court of the United States

OCTOBER TERM, 19[illegible]

CLAUDE MACK LIGHTFOOT, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE UNITED STATES

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In the Supreme Court of the United States

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No. 32

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UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the Court of Appeals (R. 619–634) is reported at 228 F. 2d 861.

JURISDICTION

The judgment of the Court of Appeals (R. 635) was entered on January 12, 1956. The petition for a writ of certiorari was filed on February 3, 1956, and was granted on March 26, 1956 (R. 635). 350 U. S. 992. The jurisdiction of this Court rests upon 28 U. S. C. 1254 (1).

QUESTIONS PRESENTED

1. Whether the evidence sustains the verdict.

2. Whether the "membership" clause of the Smith Act (18 U. S. C. 2385) is unconstitutional on its face or as applied to the facts of this case.

3. Whether the trial court erred in denying petitioner's motion that the court inspect the written report made to the F. B. I. by a prosecution witness concerning the subject matter of his testimony so that it could determine whether the report contradicted the testimony and was therefore material to the defense.

4. Whether the conviction and the affirmance below were based on evidence which should have been excluded as incompetent, irrelevant and remote.

5. Whether the trial court erroneously construed and applied the membership clause of the Smith Act in instructing the jury that the teaching and advocacy to which the indictment refers is the teaching and advocacy of the Communist Party as an entity and not that of the members individually.

6. Whether the immunity conferred by Section 4 (f) of the Internal Security Act (50 U. S. C. 783 (f)) bars prosecution of the offense charged in the indictment.

7. Whether the findings made by Congress in the Communist Control Act with reference to the Communist Party deprived the petitioner of the right to a fair and impartial trial.

STATUTES INVOLVED

The Smith Act (18 U. S. C. 2385), Section 4 (f) of the Internal Security Act of 1950 (50 U. S. C. 783 (f)), and Sections 2, 3, and 4 of the Communist

Control Act of 1954 (50 U. S. C. 841–843) are set forth in the brief for petitioner (pp. 89–92).

STATEMENT

The indictment upon which the petitioner was convicted was returned by a grand jury in the Northern District of Illinois, on May 14, 1954. The indictment contained one count and charged that from on or about July 26, 1945, up to and including the date of its filing, the Communist Party of the United States was a society, group and assembly of persons who taught and advocated the overthrow and destruction of the Government of the United States by force and violence as speedily as circumstances would permit; that the petitioner was a member of the Communist Party throughout the indictment period with knowledge of its aims and objectives; and that he intended to bring about the overthrow and destruction of the Government of the United States by force and violence as speedily as circumstances would permit.

After the disposition of lengthy pre-trial motions, the case was set for trial on January 11, 1955. On January 12, 1955, and before the taking of testimony, petitioner and his counsel conceded that he was a member and officer of the Communist Party during the indictment period (R. 10, 11, 12). On January 26, 1955, the jury returned a verdict of guilty (R. 591). On February 15, 1955, the trial judge, Judge Sullivan, denied petitioner's various motions for acquittal, for a new trial, and for arrest of judgment (R. 602–611), and imposed sentence of five years' im-

prisonment and a $5,000 fine (R. 611). The Court of Appeals unanimously affirmed (R. 619–634).

The evidence sustaining the verdict may be summarized as follows:

1. EVIDENCE OF THE COMMUNIST PARTY'S UNLAWFUL PURPOSES

In this, as in other prosecutions under the Smith Act, including the other cases now before this Court, there was extensive evidence demonstrating the aim and purpose of the Communist Party to bring about the forceful overthrow of the Government as speedily as circumstances would permit. We set forth this evidence in an Appendix (*infra*, pp. 50–61), and turn immediately here to the evidence showing petitioner's role as a leading member of the Party, fully familiar with its purposes and intending their achievement through his efforts in their support.

2. EVIDENCE OF PETITIONER'S KNOWLEDGE AND INTENT

As already noted, petitioner conceded at the outset of the trial his membership and officership in the Communist Party (R. 10, 11, 12). The evidence established, in addition, that his position was one of active, informed leadership at the highest levels. We summarize the evidence of his Party career and activities substantially chronologically.

The petitioner was a member of the Communist Party as early as 1930 (Gov't. Ex. 57). In 1934 he was the South Side organizer, and a member of the District Bureau of the Young Communist League (R. 62). The Young Communist League was the

Youth Section of the Communist Party and affiliated with the Young Communist International. As early as September 1934, the petitioner was a full-time Communist Party functionary (R. 60–62). A Party functionary is a Party member who is a paid officer of the Party (R. 91). During this period petitioner was also a member and later organizer of the South Side Section of the Illinois-Indiana District of the Party (R. 62).

In 1936, the petitioner went to Moscow, USSR, as a delegate to the Sixth World Congress of the Communist International (R. 64). The Young Communist International at that time was an international organization with headquarters in Moscow. It was affiliated with the Communist International, which was the World Communist Party. The Communist Parties of the various countries, including the United States, were sections of the Communist International (R. 64).

From 1936 to 1940, petitioner was the Section Organizer of the Southside Section, and also a member of the District Committee of the Communist Party of Illinois and Indiana. As a member of the District Committee or Bureau, petitioner was not only responsible for Communist Party activities in his own section, but also shared responsibility for all Party work, including the educational activities, that was carried out in the Illinois-Indiana District of the Party (R. 84).[1]

[1] In the Communist Party, the club is the basic unit on the lowest level. There are two types of clubs, the Industrial Club and

In addition to his numerous duties and activities in connection with the general affairs of the Party, the petitioner attended a series of meetings with one Harry Hayward, a member of the Political Bureau of the National Leadership Department of the Party during 1936. These meetings, which took place over a period of six or seven months, were held for the purpose of collaborating with Hayward, who was writing a pamphlet concerning the problems of the Party's attitude, policy, and theory on the so-called Negro question in the United States. They discussed such subjects as the Party's policy with regard to self-determination in the so-called Black Belt of the South and the means to be used in making this program palatable to Negroes. They also discussed the relationship of Communist Party policy to the struggles of the Negro people and Negro nationalism. These discussions were held from the Marxist-Leninist viewpoint (R. 111, 114–115).

Negro nationalism, as discussed at these meetings, referred to a program for the benefit of the Negro people which was not subordinated completely to the needs and interests of the Communist Party and the proletarian revolution (R. 113). A Negro nationalist, from the Communist point of view, was a person who

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the Community Club. The next higher level is the Section. In a section there may be five or more clubs. The next higher level is the State Board or State Committee which is the highest executive branch for the Party organization within a State. On the highest level within the Party is the National Committee (R. 331–333).

put the interests of the Negro people ahead of the interests of the Communist Party, while the Party's prime interest was in utilizing the Negro people as a force for the overthrow of capitalism. It was the position of the Communist Party that the anti-imperialist struggles of the peoples of Asia, Africa, and South America are auxiliary and secondary to the proletarian revolution, and all aggressions on the part of these people who have been oppressed by more advanced peoples (imperialists) are simply forces to be used by the Communist Party as a support for the victory of the proletarian revolution. Since the Communist International had decided that the Negroes in the United States were on the same footing as the repressed colonial peoples, the Party took the position that the Socialist Revolution in the United States could be best served if the Negro people were used in its cause. This they felt could be done if the Party advocated a program of national liberation and called for the separation of a so-called Black Belt in the South from the United States (R. 111–114).

The petitioner, in accord with Communist Party policy, opposed the concept of Negro nationalism. It was his position that such a policy weakened the Party's opportunity of carrying out its program among the Negro people and made it more difficult for the Party to utilize the nationalist feeling among the Negro people for strengthening not primarily the Negro struggle, but the general over-all policy of the

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Party, the leadership of the working class in the establishment of socialism and the dictatorship of the proletariat (R. 113–116).[2]

During the late 1930's and early 1940's, the petitioner, as evidenced by the testimony of the witness Meyer[3] as well as by numerous Government exhibits

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[2] In a speech given on November 10, 1950 (R. 362; Gov't. Ex. 63), the petitioner was still taking the position that the so-called "Negro question" in the United States is analogous to the situation of the so-called colonial peoples. And again in an article he published in the "Party Forum" of December 1951 (Gov't. Ex. 64), he emphasized that this question cannot be properly resolved without the guiding light of Marxism-Leninism.

[3] Witness Frank Meyer was closely associated with the petitioner from late 1934 until 1942. He attended Princeton University for two years; received a Bachelor's and later a Master's Degree at Oxford University, England; and thereafter did graduate work at the London School of Economics and the University of Chicago. He joined the Communist movement in 1931; became President of the October Club at Oxford University which was formed ostensibly for the study of Communism, but was actually a propaganda outlet for the Communists. Thereafter, he was in a Communist Party group in London, and Secretary of the National Study Bureau of the Communist Party of Great Britain. He rose swiftly in the Communist Party hierarchy in England, becoming a member of London District Committee, the Central Committee, and one summer worked with the Secretariat of the Communist Party of Great Britain. After his transfer to the Communist Party of the United States in 1934, Meyer was assigned to Chicago, Illinois, where he became a member of the District Bureau of the Young Communist League, member of the South Side Section of the Communist Party of Illinois-Indiana, and Educational Director of the same section. Thereafter, he became Membership Director, Educational Director and later Assistant Organizational Secretary of the Communist Party of Illinois-Indiana. In addition to these organizational duties, he became Director of the Chicago Workers School and other inter-Party schools and classes conducted by the Communist Party in Illinois and Indiana (R. 57–63).

(Gov't. Exs. 33, 34, 35, 36, 37), was a Communist Party instructor in inner-Party schools and classes, and a member of the faculty and instructor at the Chicago Workers School (R. 63). The Chicago Workers School, though ostensibly open to Communists and non-Communists alike, was operated by the Communist Party, and 95 percent of the instructors were Communist Party members. Its curriculum was based on Marxist-Leninist doctrine and all of the courses were based on a Marxist-Leninist interpretation (R. 65–66). The program of the school, including the class outlines, was prepared by Meyer in consultation with the District Bureau of the Party and the National Education Commission of the Party (R. 63–66). There was a general conformity in the Party throughout the country with regard to the major Marxist-Leninist courses, with minor variations to suit local requirements (R. 67).

Witness Meyer, Director of the School, had a number of discussions with the petitioner relative to the content of the courses during which the petitioner's educational background in the Party was discussed. They also had a number of conferences relative to the theoretical content of the courses on "Marxism-Leninism" and "History of the C. P. S. U." which the petitioner taught at the school (R. 71–73). Meyer found the petitioner fully qualified to meet the standards required for Party members who were charged with the responsibility of teaching its most important theoretical courses (R. 77). In fact, he found the petitioner to be an excellent instructor and one whose work required little or no supervision (R. 68). Meyer

discussed with the petitioner, in great detail, the material that was used in the classes (R. 79, 80). In order to prepare to teach the courses, it was necessary for the petitioner to use the so-called "Marxist-Leninist classics." Not only did the petitioner use these texts in connection with his instruction, but on numerous occasions during the course of discussions with Meyer relative to Marxist-Leninist theory and the proper method of teaching theory discussed the content of the "classics" in great detail (R. 78–81). These discussions, according to Meyer, were held to insure that the courses would be taught in a uniform manner; and the petitioner and Meyer were in complete agreement as to what was to be taught and how it was to be taught (R. 97). At these conferences such works as *The Communist Manifesto* (Gov't Ex. 18), *Foundations of Leninism* (Gov't. Ex. 19), *Problems of Leninism* (Gov't. Ex. 21), *History of the Communist Party of the Soviet Union (Bolsheviks)* (Gov't. Ex. 22), *State and Revolution* (Gov't. Ex. 23), and *Left Wing Communism—An Infantile Disorder* (Gov't. Ex. 25) were discussed generally, and certain specific parts in great detail.[4]

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[4] During their discussions relative to the material to be covered in the classes, Meyer recalled that he and the petitioner specifically discussed the *Communist Manifesto* (Gov't. Ex. 18) and *Foundations of Leninism* (Gov't. Ex. 19) in their entirety. They also discussed *Problems of Leninism* (Gov't. Ex. 21), pp. 7–9, 10–12, 16–28, 44–45, 66; *History of Communist Party of the Soviet Union (Bolshevik)*, pp. 2, 32–34, 70–72, 81, 133, 134, 149, 150, 151, 159, 167–168, 170, 171, 180, 183, 188, 192, 195, 198, 204, 205, 208, 223, 224, 231, 267, 274, 353–363; *State and Revolution* (Gov't. Ex. 23), pp. 9–10, 19–20, 23, 33–34, 52–53; *Left Wing Commu-*

The petitioner also taught at District Training schools of the Party which were conducted by full-time functionaries for the purpose of obtaining new blood in the Party leadership. These schools were of four, five and six weeks' duration, operated on a full-time basis, and the students were secluded. At these schools the students were kept under constant training pressure, not only during their formal classes, but in their spare time as well. The school program included discussions with the students, directed toward adjusting their personalities to meet the standards expected of trained Party leaders. Qualifications for instructors at the District Training Schools required that they either be leading Party functionaries or top-level Communist leaders in the educational fields. In this category were members of the National School Commission of the Communist Party or responsible Party leaders specializing in teaching Marxism-Leninism within the District. Meyer testified that the petitioner was fully qualified to be an instructor inasmuch as he was a top Party functionary and one of the most capable members in the Illinois-Indiana District of the Communist Party in the field of Marxist-Leninist theory (R. 82–84).

After a period of military service during World War II, the petitioner returned to Chicago and resumed his activities in the Communist Party. By the time he returned to Chicago, the Party had been re-

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nism—An Infantile Disorder (Gov't. Ex. 25), pp. 7, 12, 16, 29, 38, 59, 66–67, 70, 74–75, 80; *What Is To Be Done* (Gov't. Ex. 41), pp. 8, 105–106, 157, 158, 163, as well as numerous others (R. 97–108).

constituted nationally as well as in the Illinois-Indiana district (R. 41–43, 162, 435, 436, 450).[5] In fact, petitioner was elected to the District Committee of the reconstituted Communist Party of Illinois in August 1945 while still in the Army and ostensibly not a member of the Party (R. 37).

In November 1945, the petitioner, while still in the Army, attended a meeting of the District Committee of the Communist Party which was called for the purpose of discussing the role to be played by the Party in veterans' organizations. Gil Green, Chairman of the Communist Party of Illinois at the time, informed those present that the National Committee of the Communist Party had decided that the Communist veterans who had left the service should infiltrate the American Legion and the Veterans of Foreign Wars and try to take over the leadership of these organizations. Green pointed out that Hitler had taken over Germany with the aid of the veterans (R. 346–347).

Beginning in early 1946, the petitioner's rise to high leadership positions in the Party became quite swift. Between 1946 and 1954, he was Executive Sec-

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[5] In 1944, the Communist Party under its then general secretary, Earl Browder, became known as the Communist Political Association. For a period of a little more than a year, the Political Association, ostensibly at least, abandoned its program of the "class struggle" and professed to believe that peaceful collaboration between Communism and Capitalism was a possibility. At a Special Convention held in July 1945, however, Browder and his policy were repudiated and the Party, under the leadership of William Z. Foster, resumed its former identity as the Communist Party, was reconstituted and returned to the revolutionary tenets of Marxism-Leninism (R. 36, 342–343; Gov't Exs. 48, 55).

retary of the Illinois State Committee (R. 25–26; Gov't. Exs. 2, 5); Acting State Chairman (Gov't. Ex. 57) and State Secretary, the top official in the Communist Party of Illinois in 1950 (R. 344–345). During this same period, he was one of the officers of the Party entrusted with its financial affairs (Gov't Exs. 1, 2, 5, 6, 7, 8).

In addition to performing his organizational duties as a top leader of the Party, petitioner attended many meetings and was an instructor in Party schools. In 1946 at a convention of the South Side Section of the Communist Party of Illinois, he was among those who gave reports. He stated, among other things that the labor movement was more militant from 1917 to 1921, but here in this country the revolutionary movement had not succeeded. He pointed out, however, that in Russia the revolution under the wise leadership of Lenin and Stalin was successful (R. 347–348).

The witness Skinner* testified that in 1946 she attended the Abraham Lincoln School in Chicago, and received a course in the "Fundamentals of Marxism" from the petitioner.

During the year 1947, the petitioner also participated in a number of closed Communist Party meetings and was an instructor in at least one additional Communist Party school. In early 1947, he attended a meeting of Communist veterans in which the importance of having Communist Party members infil-

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*Skinner was a member of the Party from 1946 to January 1948, and during part of that period worked in the District Office of the Communist Party of Chicago (R. 448).

trate into veterans' organizations was again emphasized. The Party members were reminded once again of the important part played by the German and Italian veterans when Hitler and Mussolini came to power. Later in 1947, the petitioner himself spoke at a meeting in Chicago and told the Party members that an Investigating Committee which had requested his appearance, with certain files of the Party "would play hell" before they would get them. He also pointed out that under certain circumstances it was necessary for Party functionaries to remain under cover (R. 349–351).

In July 1947, the petitioner was an instructor at a full-time Party School at Lake Ivanhoe, Wisconsin. The witness Brzek,[7] who was a member of the Communist Party of Wisconsin, attended the school and testified that the petitioner taught courses on "Strategy and Tactics" and "History and Role of the Party" (R. 457–458; Gov't. Ex. 54). In connection with his instruction in these courses the petitioner used a pamphlet entitled "Democratic Centralism" (R. 457–458; Gov't Ex. 55), "The History of the Communist Party" (Gov't. Ex. 22),[8] and other books and pamphlets. During his instruction the petitioner pointed out that, because of lack of proper self-criticism in

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[7] Brzek was a member of the Communist Party in Milwaukee, Wisconsin, from 1943 to 1947, and joined at the request of the Federal Bureau of Investigation (R. 452).

[8] Gov't. Ex. 56. *History of the Communist Party of the Soviet Union*, was the book actually used by witness Brzek in connection with the petitioner's classes at the school. It was stipulated by defense counsel that Gov't. Ex. 56 was in evidence as Gov't. Ex. 22 (R. 458–459).

the Party, Earl Browder was able to lead the Party off the path of socialism (R. 460). He went on to discuss the failure of the early Russian revolution and point out that the second and successful Russian revolution began with a series of strikes and then spread, and that even the women participated in that revolution. He also pointed out that the American revolution was a landowner's revolution and not a proletarian revolution as was the second revolution in Russia (R. 460–461).

In discussing Party discipline, he compared it to the discipline in the Army with its staff system, observing that the highest authority were the colonels, lieutenants and sergeants. He compared himself to a sergeant because of his "advanced education" in the Party* (R. 460–461). He then emphasized that "when the time came" the Party members would have to leave their homes and their families and go to their appointed posts. They were the same as soldiers and must make the necessary personal sacrifices to man

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* In Gov't. Ex. 54 under the subject "The History and Role of the Party," reading assigned from *Foundations of Leninism* (Gov't. Ex. 19), at page 109, we find the following statement:

"I. The Party as the Vanguard of the Working Class

"The Party must be, first of all, the vanguard of the working class. The Party must absorb all the best elements of the working class, their experience, their revolutionary spirit, their selfless devotion to the cause of the proletariat. But in order that it may really be the vanguard, the Party must be armed with a revolutionary theory, with a knowledge of the laws of revolution. Without this, it will be incapable of directing the struggle of the proletariat, of leading the proletariat."

their posts; otherwise, their posts would be open with no one there to aid the movement. He also remarked that the control of the Army and Navy would be a problem, but brushed it aside by saying it was not a problem for the rank-and-file members but rather one to be handled by the top officials of the Party (R. 461).

The petitioner then discussed the necessity of using bloodshed to obtain the objectives of the Party. He said "that we will approach this to avoid bloodshed, but those who had control, wouldn't want to give up" (R. 461–462). It was his position that in capitalistic wars the capitalists themselves don't have their blood spilled; "however, in this case it would be their blood." He went on to explain that the bloodshed would not involve shooting firearms, but a more quiet method (R. 461). He again compared the Party with the Army, stating that in time of war soldiers take orders from their superiors without question, even though they are going to face death. He told his students to be ready to die because they may be killed. However, those who survived would receive the benefits of the future generations (R. 461–462). He then reiterated his earlier statement that the Party would "approach it to avoid bloodshed" but, because bloodshed is a pre-condition of the successful revolution, he emphasized that bloodshed was on the agenda when he stated "we will not be pushed off. If we have to spill blood, we will" (R. 462).

In September 1947, the petitioner was present at a Communist Party meeting held in Chicago to cele-

brate the 100th anniversary of Marxism. John Gates, a member of the National Committee and editor of the "Daily Worker" was the principal speaker. He reviewed the history of the Communist parties from the time of Marx and Engels to the present. He quoted Lenin as saying that it would take many years of hard work to establish proletarian governments in the world and then quoted a statement by the petitioner with regard to establishing a proletarian government in the United States. Gil Green also spoke, stating that he hoped to celebrate the next anniversary of Marxism in the Soviet Republic of the United States (R. 351–352).

At the 1947 State Convention of the Communist Party of Illinois, the petitioner was present and was elected a member of the State Board of the Party. Gil Green was among those who spoke, and emphasized the importance of Marxist-Leninist education for Party members. He also instructed the Party members to take a more active part in the unions, and concluded his remarks by referring to the Americans as imperialists (R. 353–355).

The petitioner attended the National Convention of the Party held in New York City during August 1948. He occupied the speakers platform throughout the proceeding, together with William Z. Foster, Eugene Dennis and Elizabeth G. Flynn, and was the chairman of one of the sessions. He gave the principal report for the session, after being introduced by Eugene Dennis, the National Secretary of the Party (R. 437–438).

At the State Convention of the Communist Party of Illinois in 1948, petitioner was one of three officers appointed to a regional board which was set up to accelerate Communist infiltration in key basic industries (R. 358). This was in accord with the program of the Party which was established after the 1945 National Convention. The industrial concentration policy called for the concentration of Party members in such key basic industries as steel, transportation and others (R. 358–360).

In 1950, the petitioner became an alternate member of the National Committee of the Communist Party, which was the top governing body of the Communist Party in the United States (R. 333, Gov't. Exs. 45, 93). In this position he shared the responsibility for carrying out the Party's program throughout the United States.

Thereafter, the petitioner continued to be active in the Communist Party in Illinois, and in August 1950 was chairman of a meeting which was held in Chicago for the purpose of honoring Elizabeth Gurley Flynn, a member of the National Committee of the Communist Party (R. 361). Again in November 1950, the petitioner was the principal speaker at a Party meeting held in honor of the 33rd anniversary of the Russian Revolution (R. 362–363; Gov't. Ex. 63). At that meeting, petitioner spoke in praise of the Russian Revolution and stated, among other things, that it was brought about "under the wise leadership of Lenin and Stalin."

During the period from 1949 through 1953, in addition to being a leading functionary of the Communist

Party of Illinois and having been elected as alternate member of the National Committee in December 1950 (R. 335; Gov't Exs. 61, 93), the petitioner, by his words and in his writings, reflected his continued adherence to the program of the Communist Party and to the principles of Marxism-Leninism upon which the Party based its activities (R. 308, 371; Gov't Exs. 1–6). In June 1951, he spoke at a Communist Party meeting in Chicago and assured those present that they would win against their enemies, reminding them that even though their weapons were not as large as their enemies', David had slain Goliath with a slingshot. At the conclusion of this meeting, he requested all present to rise and sing the "Internationale" (R. 371–372). In the same month, the petitioner spoke at a closed Communist Party meeting in Chicago at which Jack Kling, chairman of the Communist Party of Wisconsin was chairman. In his speech dedicated to Gil Green, a national officer of the Communist Party who was present but about to go to jail,[10] the petitioner emphasized the importance of following the Marxist line by getting more Party members to leave white-collar positions to go into the working-class movement (R. 308–310).

The petitioner contributed a number of articles to the "Party Forum," the official Party publication of the State of Illinois. His articles stressed the im-

[10] Gil Green was one of the top leaders of the Communist Party convicted of conspiring to violate the Smith Act in *United States* v. *Dennis*, 341 U. S. 494. Shortly after the meeting in June 1951, he became a fugitive from justice and so remained until February 27, 1956.

portance of the industrial concentration and educational programs of the Party. Also stressed was the importance of the Marxist-Leninist classics and the fact that the Party's educational program is aimed at equipping the membership with the knowledge and experience to adopt the most effective tactics in effecting the ultimate aims of Marxism-Leninism (Gov't. Exs. 57, 58, 59 60, 63, 64, 66).[11]

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[11] In the December 1951 edition of Party Forum, petitioner stated (R. 375; Gov't. Ex. 64):

"We cannot carry out these responsibilities unless we achieve a greater knowledge of Marxist-Leninist and Stalinist teachings on the National Question. I refer to such classic works as 'Marxism and the National Colonial Question by J. Stalin, the National Question in Foundations of Leninism and the History of the CPSU.' These works, together with the new experiences that have been generated by the Chinese revolution and reflected in the works of Mao Tse Tung and Liv Shao-Chi, plus the Resolution of our Party on the Negro Question, must serve as guiding lights in approaching the Negro Question in the United States."

In another article in the same publication, he went on to state (R. 376–377):

"Perhaps one of the major reasons why we have not helped generate expanded mass activities in this period is the erroneous belief that the Party cannot make, relatively speaking, much progress until the storms surrounding us have subsided. * * *

* * * * * * *

"Let us remember that the Bolshevik Party (CPSU) in 1917 emerged from the Underground in February and took power in the short space of eight months. Most of the preparatory work for the seizure of power was done in the conditions of the Underground. Let us not forget that the Communist Parties of Europe, especially in France and Italy, won the leadership of the working class in the Underground partisan movement—a task they had not been able to accomplish prior to the Nazi occupation of their countries. * * *"

SUMMARY OF ARGUMENT

I

The evidence fully sustains the jury's findings that petitioner knew the Communist Party's unlawful purposes and personally intended their achievement.

A. Unable to dispute the admitted facts of his long, active membership and position of top leadership in the Party, petitioner makes no serious effort to argue that the evidence failed to establish his knowledge of the Party's purposes. Instead, he claims that the evidence showed the Party to be wedded to democratic processes, that there was a failure to prove the Party's teaching and advocacy of force and violence, and that his knowledge of the Party's purposes must for this reason have been lawful. But the evidence plainly justified the jury and the courts below in this case, like the juries and courts in every other Smith Act case, in concluding that the Party teaches and advocates force and violence.

It was shown that the Party follows, teaches, and advocates the principles of so-called Marxism-Leninism and that the use of force and violence to bring about the "dictatorship of the proletariat" is central among these principles. The Government proved the Party's program of severe indoctrination in these principles and rigid, quasi-military discipline of its members. And it was established that petitioner espoused and worked for these principles as a member of the Party's highest leadership and as a teacher in its training schools. The evidence leaves no doubt—it surely entitled the jury to infer—that

the Party teaches and advocates force and violence and that petitioner knew it.

B. The evidence was equally sufficient to show that petitioner, devoting twenty years to the Party as an aggressive member and leader, intended to achieve the Party's objective of forceful and violent overthrow as speedily as possible. Petitioner points out that it is possible to be a member of an organization without being devoted to its ultimate aims. But it was for the jury to decide whether this possibility, always unlikely within the framework of stringent Communist Party discipline, had been refuted beyond a reasonable doubt by the evidence against petitioner. The jury's conclusion that petitioner in fact intended to achieve the Party purposes for which he worked so long and devotedly is solidly grounded in the record.

II

The membership provision of the Smith Act is constitutional on its face and as applied in this case. In the Government's brief in *Scales* v. *United States*, No. 29, pp. 23–26, 33–48, we have shown, following *Dennis* v. *United States*, 341 U. S. 494, the error in the effort to nullify the statute on its face, and we refer to that discussion on this aspect of the argument here.

As to the application of the statute in this case, it is clear that, if membership in the Party, with knowledge of its unlawful purposes and intent to achieve them, may ever be punished, petitioner is at the vital core of the class Congress may reach. Working as one of the Party's very highest leaders,

petitioner was shown to be one of its most dangerous constituents. The fact that he alone could not effect the violent overthrow of the Government is no ground for ignoring or denying the clear and present danger he represents. To view him alone, without the combination and concert from which the very meaning as well as the menace of his membership derives, would wholly distort the plain facts on which Congress could and did act.

During the three years preceding the indictment, petitioner reached the level of national leadership in the Party and continued to work actively for its objectives. Though the evidence showed no express declarations in this period stating his advocacy of force and violence in so many words, it was shown that he had never departed from or ceased laboring for this objective.

There is no merit in the suggestion that world conditions had so changed by the period of this indictment (May 1951–May 1954) that the clear and present danger found in *Dennis* (where the indictment covered three years from 1945 to 1948) no longer existed. In the period involved here, the cold war turned hot in Korea and there was not—nor is there to the present day—any such relaxation of international tension as to diminish in any substantial measure the threat the Communist Party and its members pose. *United States* v. *Flynn*, 216 F. 2d 354, 367 (C. A. 2), certiorari denied, 348 U. S. 909.

III

Petitioner laid no foundation of any kind for his motion to have the Government produce for the trial court's inspection a report the witness Brzek had made to the Federal Bureau of Investigation. Moreover, the motion was not made until after the witness had left the stand and the Government had rested its case except for "loose ends." (An earlier motion for such inspection, more timely made, had been granted by the trial judge.)

In these circumstances, petitioner errs when he relies on *Gordon* v. *United States,* 344 U. S. 414, and argues that the denial of the motion with respect to Brzek was reversible error. In *Gordon,* as this Court stressed (p. 418), a proper foundation was laid through cross-examination "showing that the documents were in existence, were in possession of the Government, were made by the Government's witness under examination, were contradictory of his present testimony, and that the contradiction was as to relevant, important, and material matters * * *." No comparable basis for the motion existed here. Under the authorities reviewed in the Government's brief in *Jencks* v. *United States,* No. 23, this Term, Point I, to which reference is made here, it seems clear that the trial judge has a large discretion with respect to motions of the kind here in issue. Denial of the motion in this case was no abuse of that discretion.

IV

The portions of the evidence to which petitioner objects were properly admitted to show the doctrines and objectives of the Communist Party and petitioner's knowledge and intent.

A. The witness John Lautner, whose long career as a high-level functionary in the Party until 1950 closely paralleled petitioner's own, was well qualified to testify as an expert on the Party's principles and purposes. Since the nature of the Party was a material issue, his testimony was relevant and admissible. *United States* v. *Dennis,* 183 F. 2d 201, 229 (C. A. 2), affirmed, 341 U. S. 494. It was for the jury to decide whether Lautner's testimony and the other evidence proved that the Party taught and advocated force and violence. There was, of course, the further question whether petitioner knew this, but the existence of this additional problem in no way precluded use of Lautner's testimony to prove the Party's character. Nor is there substance to the claim that Lautner's testimony was hearsay. The issue was not whether the Party doctrines to which he testified were true; the issue was what those doctrines were. See *United States* v. *Mesarosh,* 223 F. 2d 449, 454 (C. A. 3), pending on certiorari, No. 20, this Term.

B. The testimony of Frank S. Meyer, part of the evidence portraying petitioner's twenty-year career in the Party, showed petitioner's activities as an active member and teacher from 1938 to 1942. Since knowledge once acquired tends to persist, this evidence, part of the unbroken pattern of petitioner's

earlier and later activities as an authoritative Marxist-Leninist teacher, served to demonstrate petitioner's knowledge of the Party's doctrines and purposes. The claim of remoteness was a matter for the trial judge's discretion, and his ruling scarcely approaches an abuse warranting reversal. *United States* v. *Dennis, supra,* 183 F. 2d at 231; *United States* v. *Mesarosh, supra,* 223 F. 2d at 455.

C. The writings known as the Marxist-Leninist "classics" were proved to supply the bedrock of Communist Party doctrine and the core of the Party's program and teachings. They were, accordingly, properly received in evidence as materials which "lend considerable support to the charge" that the Party teaches and advocates revolution by force and violence. See *Schneiderman* v. *United States,* 320 U. S. 118, 153.

V

The trial court was correct in instructing that, in order to convict, the jury must find that the Communist Party as such taught and advocated force and violence. Petitioner contends that the instruction should have referred, not to the teaching and advocacy of the Party, but to that of "a majority, or at least a substantial proportion," of the Party's members. This novel argument, which would make Smith Act charges unprovable as a practical matter and would render erroneous every conviction under the Act beginning with *Dennis,* has only the flimsiest support in pure semantics and is refuted by both good sense and legislative history.

The argument is thought to follow from the reference in the statute to any "society, group, and *assembly of persons who teach* * * *." Located as it is after the expression "assembly of persons," the pronoun "who" was a linguistically appropriate one. But the legislative history leaves no doubt that the quoted phrase meant nothing other than a "society or group * * * *which* advocates"—the latter phrase being the one used in the reports to describe the statutory language in question. S. Rep. No. 1796, 76th Cong., 3d sess., p. 2; H. Rep. No. 2683, 76th Cong., 3d sess., p. 8.

Plainly, what concerned Congress was organizations, as such, engaged in the proscribed teaching and advocacy. And it is clear, particularly with the totalitarian groups with which the Smith Act is concerned, that the nature of an organization's doctrines is discoverable from what its leaders, teachers, and policy-makers teach and advocate, not by the unmanageable task of trying to prove in court what all, or most, members teach and advocate. The trial court's instructions, following this sensible interpretation, were correct.

VI

For the reasons outlined in the Government's brief in *Scales* v. *United States*, No. 29, this Term, pp. 27, 51–56, we submit that petitioner is mistaken in his argument that Section 4 (f) of the Internal Security Act of 1950 amends the membership clause of the Smith Act so as to immunize from prosecution members of the Communist Party who know the Party's purposes and intend their achievement.

VII

Our brief in *Scales*, pp. 77–78, also answers the contention that, because Congress found in the Internal Security Act of 1950 and the Communist Control Act of 1954 that the Communist Party presents a danger in its conspiratorial preparation for and advocacy of violent revolution, it must be conclusively presumed, without evidence or inquiry of the jurors, that petitioner could not have had the independent jury verdict required by the trial court's instructions.

ARGUMENT

I

THE EVIDENCE FULLY SUSTAINS THE VERDICT

In denying petitioner's motion for a directed verdict of acquittal, Judge Sullivan said (R. 594):

> * * * I wished to make an exhaustive study of the evidence submitted, with a view to using my power under Rule 29 of the Federal Rules of Criminal Procedure to direct a judgment of acquittal if it should appear that the verdict of the jury was not supported by evidence from which a reasonable mind could conclude guilt beyond a reasonable doubt.
>
> This study has convinced me that the verdict of the jury was supported by the required evidence.

Disputing this conclusion, affirmed by the unanimous court below, petitioner undertakes the extraordinary burden of seeking to overturn the jury's verdict here, arguing that the evidence was insufficient with respect

to both (a) his knowledge of the Party's purpose of violent revolution and (b) his intent to achieve that purpose. We submit that the proof on these issues was overwhelming and amply justified the jury's conclusion that petitioner was guilty beyond a reasonable doubt.

A. THE PROOF OF PETITIONER'S KNOWLEDGE

Acknowledging his role as a leader at the very highest levels of the Communist Party, the petitioner, on the issue of his knowledge, makes no serious effort to claim ignorance of the Party's doctrines and objectives. Instead, the attempt in his argument on this point (Br. 31–41) is primarily to show that the Party itself "advocated a peaceful path to socialism in this country" (Br. 40 and *passim*), so that he could have had only innocent knowledge of this innocent purpose. The jury's contrary view finds powerful basis in the record.

As noted in our brief in *Scales* v. *United States,* No. 29, pp. 57–58, all of the many courts and juries which have considered this question under the Smith Act have agreed that the Communist Party teaches and advocates the violent overthrow of the Government as speedily as circumstances may permit. The substantially similar evidence in this case warranted the same conclusion.

Spanning the two decades of petitioner's career as a constantly rising Communist up to the date of the indictment, the evidence showed clearly how the Party patterned its doctrines and programs minutely on the tenets of so-called Marxism-Leninism (Appendix, *in-*

fra, pp. 50–61). The now familiar principles of this dogma were presented to the jury—the belief in minority seizure of power (*infra,* pp. 52–53), the need for "smashing" the state machine (*infra,* pp. 52–53), "the law of violent proletarian revolution" (*infra,* p. 53), the objective of "forcible destruction of the bourgeois state machine" (*infra,* p. 53), the ridiculing of the notion "that such a revolution can be carried out peacefully" (*infra,* p. 53), the role of strikes in fomenting revolution (*infra,* p. 59), and, above all, the mission of the disciplined, "democratically centralist," conspiratorial, infiltrating Party as the instrument and "vanguard" of the violent revolution (*supra,* pp. 14, 15–16; *infra,* pp. 54, 58–59). The evidence showed beyond question that these prescriptions for violence were not merely intellectual abstractions for academic discussions of the "classics," but were the basic, practical, detailed guidebooks on which the Party grounded its teaching, its advocacy, and its programs.

The Government proved that the Party, through its leaders and teachers, drilled and rehearsed its members in the Marxist-Leninist program for violent revolution. In formal, full-time schools, the Party gave training in Marxist-Leninist strategy and tactics, emphasizing the military discipline required of members, the need to anticipate and prepare for bloodshed (*supra,* pp. 8–11, 13, 14–16; *infra,* pp. 50, 55, 56, 59). The Bolshevik minority's violent seizure of power in Russia was constantly held up as a lesson and a guide, to be learned and followed whenever an opportunity should present itself (*supra,* pp. 13, 15, 18).

In the evidence thus briefly resummarized there is no place left for petitioner's claim that the jury was not free to find that the Party taught and advocated violent revolution. And any suggestion that petitioner lacked knowledge of the Party's purposes falls at the same time. As shown in detail in the Statement (*supra*, pp. 4–20), he was for many years a loyal and active member, rising by the time of the indictment to the very highest levels of Party leadership. For much of this period, his knowledge of and loyalty to Party doctrine were clear and reliable enough for him to be a leading teacher of other members at Party schools and meetings. It was demonstrated that he repeatedly endorsed and enjoined upon others the Party principles of military discipline and preparation for violence (*supra*, pp. 13, 14–16, 18, 19–20). Having failed in his implausible efforts to establish the Party as a peaceable organization eschewing the doctrines of force and violence, petitioner can scarcely hope to overturn the finding that, in his place of high leadership, he knew fully the Party's true purposes.

Concentrating as he does on the effort to discredit the jury's verdict as to the nature of the Party, petitioner states (Br. 35–36) that prosecution witness Lautner actually testified to the belief of the Party in a peaceful path to socialism. The statement he quotes for this startling observation is Lautner's concession on cross-examination that, according to the Party, if socialism could not be peacefully established in the United States, the only reason would be the attempt of the "trusts and monopolies" to prevent

it by force and violence. But this answer was, of course, perfectly consistent with the unequivocal testimony of the same witness that Marxist-Leninist principles were the Party's guide, and with the central premise of these principles that the bourgeoisie—the "trusts and monopolies"—would never surrender to socialism without force and violence. The question of which party as aggressor begins the contest of force and violence has numerous contemporary illustrations. The jury could certainly have concluded—was almost compelled to conclude—from the evidence here that the Party teaches and plans for force and violence, whatever the supposed merit of its view that this is necessary because force and violence would in any event be used against it by its enemies.

Petitioner's case is not improved by the complaint (Br. 36–37) that the jury's verdict rejects the professions in a book by William Z. Foster and in the Party's Constitution of adherence to peaceful, electoral procedures as the path to socialism. These very writings reiterate the Party's adherence to Marxist-Leninist principles,[12] and there was more than sufficient basis in this fact and the other evidence on which the jury could conclude that the occasional endorsement of democratic processes did not reflect the Party's true doctrines and objectives.[13] The most

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[12] Foster, *History of the Communist Party of the United States*, pp. 415, 521 (Deft. Ex. 3, R. 476–479); Communist Party Constitution, Preamble and Art. III, Sec. 5 (Gov't. Ex. 45, R. 479–480).

[13] Petitioner even invokes the speech of Soviet Communist Party Secretary Khrushchev before the 20th Congress of the So-

that can be said is that these isolated declarations eschewing force and violence created a measure of conflict in the evidence, a matter peculiarly within the jury's province.

B. THE PROOF OF PETITIONER'S INTENT

Petitioner argues (Br. 43) that the court below erred in sustaining his conviction because it viewed his active, leading membership in and devotion to the Communist Party, together with his knowledge of the Party's principles and its program of severe discipline over its members, as constituting evidence from which the jury could have found his unlawful intent to achieve the Party's unlawful purposes. In support of this contention, he points out that individuals "may be attracted" (*ibid.*) to such an organization because of belief in some immediate objective rather than belief in and desire to attain the group's ultimate goals. But this is only an argument for the jury to have considered, and one which plainly deserved rejection on this record.

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viet Party (*New York Times*, February 15, 1956) to show the "evolutionary character of Marxist thought" and the belief in "the non-inevitability of war" (Pet. Br. 39, fn. 24). The following passage from that speech is illuminating:

"The enemies are fond of depicting us, Leninists, as supporters of violence always and in all circumstances. It is true that we recognize the necessity for the revolutionary transformation of capitalist society into Socialist society.

"This is what distinguishes revolutionary Marxists from reformists and opportunists. There is not a shadow of a doubt that for a number of capitalist countries the overthrow of the bourgeois dictatorship by force and connected sharp aggravation of the class struggle is necessary."

Certainly, petitioner's role as a devoted adherent and top leader justified reasonable men in believing he intended the accomplishment of the Party's objectives. In the three years preceding the indictment, petitioner was elevated to the Party's National Committee, its top governing body (R. 334–335; Gov't. Ex. 61). In this period he worked as a leader, spoke as a leader, and associated closely with other leaders, including at least one whose conviction had been finally affirmed by this Court in *Dennis* (R. 308–310, 374–379, 379–380; Gov't. Exs. 59, 64, 65, 66). Behind this period lay a long career in the Party, teaching and working for the Party's principles of force and violence, as the evidence repeatedly and specifically showed (*supra,* pp. 4–20). In this evidence there was more than ample basis for inferring that he intended to achieve what his consistent efforts appeared to be designed for. Cf. *American Communications Ass'n.* v. *Douds,* 339 U. S. 382, 411. To be sure, the jury could conceivably have been persuaded that—despite all he did for the Party and despite his teachings and statements prior to and after May 1951—petitioner did not in fact intend, during the indictment period (May 1951–May 1954), to bring about what the Party sought. But, having failed with the jury, this extravagant hypothesis is clearly no justification for overturning the verdict here.

II

THE MEMBERSHIP PROVISION OF THE SMITH ACT IS CONSTITUTIONAL ON ITS FACE AND AS APPLIED IN THIS CASE.

In our brief in *Scales* v. *United States*, No. 29, pp. 23–26, 33–48, we have undertaken to refute the contention that, despite the decision in *Dennis* v. *United States*, 341 U. S. 494, the membership provision of the Smith Act may be held invalid on its face. Respectfully referring to that discussion in answer to the arguments of the present petitioner, we consider here only his claim that the provision is unconstitutional as applied in this case.

We submit that, unless petitioner is correct in arguing that the membership provision may never be applied at all, he is surely wrong in contending that it could not apply to him. Unless, as petitioner would insist, every member must be viewed in isolation, ignoring the elements of concert and combination which comprise the essence of Party membership, the petitioner is unquestionably at the vital center of the class against which Congress could act. We have answered in our brief in *Scales* (pp. 48–51) the palpably fallacious suggestion that, because no member alone is able to effect a violent revolution, every member must be immune from prosecution. And petitioner's role among the most powerful and influential of all members leaves no basis for the claim that, as applied to him, the statute fails the test of clear and present danger.

It is true, as petitioner states (Br. 57), that the evidence covering the three years preceding his indictment showed no declarations by him advocating in so many words the overthrow of the Government by force and violence. The evidence did show, however, that it was during this period, on May 26, 1951, that he was elevated to the National Committee, the highest level of Party leadership (R. 334–335; Gov't. Ex. 61). During this period, in his role of top leadership, it was shown that he continued to preach adherence to the "Marxian line," urging his followers to get into the labor movement and thus to honor their colleague Gil Green, the leader convicted in the *Dennis* case who was about to go to jail (R. 310).[14] Again in June 1951, he spoke for the Party effort, vowing that, like David slaying Goliath, the Party would defeat its enemies though its weapons seemed slighter (R. 371–372). During this same period, he wrote for the Party on the importance of adhering to Marxist-Leninist principles and on the need to learn from and follow the underground experience of the Bolshevik and other Communist Parties (Gov't Exs. 57, 58, 59, 60, 63, 64, 66).

Appraising petitioner's position and activities, against the background of voluminous evidence of what petitioner and the Party consistently advocated and worked for at all times, the Court could conclude that petitioner—top Party leader and indoc-

[14] The cited speech, at the meeting to honor Gil Green, was given in mid-June of 1951, after this Court's affirmance in *Dennis*. Shortly afterward, Green became a fugitive, and he did not actually begin to serve his term until February 23, 1956.

trinator—was not "dangerous" (Pet. Br. 57) only by concluding that the Party itself was not dangerous. As we have argued, such a conclusion is no more required here than it was in the *Dennis* case.

Nor is petitioner aided in his claim that the statute was unconstitutionally applied by his more extensive argument (Br. 57–60) that world conditions had so changed since *Dennis* as to preclude a finding of clear and present danger in this case. The three years prior to the indictment (May 14, 1954) began just before the outbreak of fighting in Korea. For two-thirds of this period, the United States was engaged in armed combat against Communist North Korea and forces from Communist China, encounters which resulted in 33,629 American battle deaths.[18] True, there has been a truce in Korea and other events have given some ground for hope that peace may be preserved. But it scarcely requires argument that the period here in question, and extending to the present day, is not constitutionally less fraught with clear and present danger than was the period from 1945 to 1948 considered by this Court in *Dennis* in 1951. Petitioner's contrary view was shortly and sufficiently answered in *United States* v. *Flynn*, 216 F. 2d 354, 367 (C. A. 2), certiorari denied, 348 U. S. 909, where the court said that "if the danger was clear and present in 1948, it can hardly be thought to have been less in 1951, when the Korean conflict was raging and our relations with the Communist world had moved from cold to hot war."

[18] *The World Almanac*, 1956, p. 741.

III

THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN DENYING PETITIONER'S MOTION THAT THE COURT INSPECT THE REPORT OF THE WITNESS BRZEK

Petitioner complains (Br. 61–66) that it was error for the trial court to deny his motion to require the Government to produce for the court's inspection a report made to the Federal Bureau of Investigation by the witness Brzek concerning a Communist Party school conducted at Lake Ivanhoe, Wisconsin, in July 1947. We think it clear, however, that the trial judge, who had granted a prior motion of this kind during the trial, which was at least presented at a more appropriate time,[16] was well within the limits of his proper discretion in denying the one now in question.

The petitioner laid no foundation of any kind for the inspection he sought. No effort was made to explore by questioning the witness on the stand the possibility of any such contradiction as petitioner says he hoped might be revealed by an inspection of the reports. Indeed, the inspection was not even re-

[16] Earlier in the case, the trial court had inspected reports made to the Federal Bureau of Investigation by another prosecution witness, Czarnowski (R. 424–425, 442). The request was made during the cross-examination of the witness. After inspection of the reports, the court stated that it had found no contradiction between the testimony of the witness and the reports, and denied the petitioner's request that he be permitted to inspect them (R. 469–470). Thereafter, the reports were sealed and made a part of the record of the case as Court exhibits 1, 2, 3 (R. 550). No complaint is tendered by petitioner concerning this earlier episode. Compare the argument of the petitioner in *Scales* v. *United States*, No. 29, this Term, Pet. Br. 43–44.

quested until after the witness had been excused and the Government had concluded its presentation of evidence and had rested its case except for "loose ends" (R. 468). There is thus, as the court below held (R. 628–629), a whole world of difference between this case and *Gordon v. United States*, 344 U. S. 414, which petitioner vainly invokes. There, this Court noted, at 418:

> By proper cross-examination, defense counsel laid a foundation for his demand by showing that the documents were in existence, were in possession of the Government, were made by the Government's witness under examination, were contradictory of his present testimony, and that the contradiction was as to relevant, important and material matters which directly bore on the main issue being tried * * *.

Here, there was nothing approaching that critical foundation, particularly the showing of inconsistency, which was at the heart of the decision in *Gordon*. In addition, as in *Goldman* v. *United States*, 316 U. S. 129, the notes had not been used in court, another distinguishing factor noted in *Gordon*. 344 U. S. at 419, fn. 10.

In our brief in *Jencks* v. *United States*, No. 23, this Term, Point I (see also the Government's brief in *Scales* v. *United States*, No. 29, this Term, pp. 74–77), we review the precedents and the principles governing this matter. As we show there, the question is one confined largely to the discretion of the trial judge. In the circumstances of this case—given the lack of any foundation and the tardiness of the

motion—we think it clear that this discretion was not abused.

IV

THE COURT BELOW PROPERLY UPHELD THE TRIAL COURT'S ADMISSION OF TESTIMONY SHOWING THE DOCTRINES AND OBJECTIVES OF THE COMMUNIST PARTY AND PETITIONER'S LONG CONNECTION WITH THEM

A. TESTIMONY OF JOHN LAUTNER

In the first of the three items of evidence of which petitioner complains (Br. 67–74), the witness John Lautner was permitted to give opinion testimony as to the aims and objectives of the Communist Party. Lautner was a high-level Party functionary whose membership dated back some twenty years at the time of his break with the Party in 1950. He joined the Party in 1929, within a year of the time the petitioner joined. In many respects his background in the Party is similar to that of the petitioner (see fn. 17, p. 50, *infra*). Although the petitioner remained for the most part in the Chicago area and Lautner was transferred to different positions in the Party organization throughout the country, both progressed through the ranks to high positions of Party leadership. Both held positions on a Section and State level and both were raised to the national leadership of the Party. Both received thorough indoctrination in the Party program and in the revolutionary principles of Marxism-Leninism. Both were instructors in Party schools established for the training of new Party leaders. Both were in a position to know and understand the aims and objectives of the Party, and when they taught

classes and spoke at meetings they were teaching and speaking as official spokesmen for the Communist Party.

Apart from the close parallel between his career in the Party and petitioner's, the record clearly established Lautner's qualifications to speak as an expert on the Party's principles and objectives. As the Court of Appeals for the Fourth Circuit recently said in a similar case (*Frankfeld* v. *United States*, 198 F. 2d 679, 689, certiorari denied, 344 U. S. 922):

> * * * It is difficult to see * * * how better evidence of the teachings and purposes of a party could be obtained than from the testimony of those who heard and participated in the teachings sponsored by the party. In so far as the testimony related to the fact of the teachings of the party, its admissibility does not admit of argument. In so far as it involved matter of opinion, this related to a matter involving specialized knowledge, as to which the opinion of experts is unquestionably admissible, even though it relates to a matter which is for the decision of the jury.

To the same effect see *United States* v. *Dennis*, 183 F. 2d 201, 229 (C. A. 2), affirmed, 341 U. S. 494.

It is clear, of course, that the nature of the Communist Party, its teachings and objectives, was a material issue in the case. It is equally clear that this issue could properly be explored by inquiring of someone in a position to know what the Party stood for and how it functioned. Lautner met this test beyond question.

It is neither correct in fact nor relevant on the question of admissibility here considered to argue (Pet. Br. 67) that there was no evidence showing petitioner's "agreement with the views which Lautner expressed." Of course, petitioner's knowledge of the Party's purposes was *another* material issue in the case, proved, as we have shown (pp. 4–20, 29, 31, *supra*) and he scarcely denies, beyond possibility of doubt. Here, we are concerned with what those purposes actually were, and the testimony petitioner chooses to dub Lautner's "views" was properly admitted on this material issue.

By the same token, petitioner fails in his contention (Br. 67–68) that Lautner's testimony should have been excluded as hearsay. Testifying like any other expert, Lautner testified to objective facts—the doctrines and purposes of the Communist Party. The question was not whether these doctrines and purposes were "true," but what they were. See *United States* v. *Mesarosh*, 223 F. 2d 449, 454 (C. A. 3), pending on certiorari, No. 20 this Term. In this light, it is obviously futile to claim (see Pet. Br. 68–70) that similar testimony was admitted in cases like *Dennis* and *Frankfeld* only as an exception to the hearsay rule resting upon the conspiracy charges there. The pertinent passages from those cases, cited above (*supra*, p. 41), fail to support this suggestion. And it would be clear, in any event, that the hearsay objection is as groundless here as it was there.

B. TESTIMONY OF FRANK S. MEYER

As we have shown (*supra*, pp. 4–20), the evidence traced petitioner's career and rise in the Party for a period of some twenty years up to the date of the indictment. What emerged from the evidence was a vivid picture of his intimacy with and consistent devotion to the Party's program aimed at overthrow of the Government by force and violence.

From among the evidence which made up this account petitioner selects the testimony of Frank Meyer and attacks it as relating to a time too remote in the past (Br. 71–73). We note at the outset that it is not accurate to describe Meyer's testimony (see Pet. Br. 72) as relating solely to events before the passage of the Smith Act in 1940. Actually, the evidence shows that the petitioner taught in a considerable number of classes, in inner-Party training schools as well as at the Chicago Workers School, all under the supervision of Meyer, from 1938 until 1942 (R. 81–82; Gov't. Exs. 33, 34, 35, 36, 37). Throughout this period, petitioner and Meyer worked closely together, discussing the content of their Marxist-Leninist courses and their presentation, although it is true that they had an unusual number of meetings in early 1940 to make transformations required by the then new *History of the Communist Party of the Soviet Union* (R. 96; Gov't. Ex. 22).

Passing this point, it seems clear that petitioner's claim of remoteness affords no basis for reversal. It is well known in fact and to the law that knowledge once acquired tends to be retained. Here, where

the nature of petitioner's knowledge was a material issue, the consistent pattern of what he learned and taught was properly traced over the long period covered by the evidence. Whether a particular item should have been excluded as too remote was a matter peculiarly for the judgment of the trial judge in his rulings on the scene as to the general problem of relevancy.

This conclusion has the closely apposite support of other decisions which have rejected similar arguments in prosecutions under the Smith Act. Thus, the Second Circuit said in *United States* v. *Dennis*, *supra*, 183 F. 2d at 231:

> How far back of the commission of the crime one may go is a matter of degree, and within the general control of the judge over the relevancy of evidence. In the case at bar, there is not the least reason to hold that his discretion was abused. The same doctrine applies to evidence occurring before the acts charged had become a crime at all * * *.

Similarly, in *United States* v. *Mesarosh*, 223 F. 2d 449, 455 (C. A. 3), pending on certiorari, No. 20 this Term, the court said:

> The prosecution's evidence contained links in Party teachings sufficient for the jury to find a continuity of Party purposes and teachings through the 1930's up to the indictment period. * * * Such evidence * * * did not * * * violate the hearsay rule, nor was it too remote since a sufficient continuity of participation by [defendant] in Party activities was shown.

The same sound basis for sustaining the trial court's discretionary ruling exists here.

C. THE MARXIST-LENINIST "CLASSICS"

That the trial court properly admitted the proffered excerpts from the Marxist-Leninist "classics" seems abundantly clear. These writings, which were shown to provide the very core of the Party's doctrine, were in the main the same as those which have been received in prior Smith Act prosecutions involving Communist Party leaders, *e. g.*, *United States* v. *Dennis, supra; United States* v. *Flynn, supra; Frankfeld* v. *United States, supra.* And in *Schneiderman* v. *United States,* 320 U. S. 118, 153, apparently recognizing both the propriety and the weight of such writings as evidence, this Court observed that they "lend considerable support to the charge" that revolution by force and violence is a principle of the Communist Party. Because the nature of the Party was a key issue in the case, and because the Party was shown to follow, rely upon and teach the doctrines laid down in the "classics," their use in evidence was plainly proper.

There is no merit in the suggestion (Pet. Br. 73–74) that the testimony of the witnesses Lautner and Meyer supplied the only basis for admitting these writings. Of course, even if it were accurate, this contention would make no difference since, as we have shown (*supra,* pp. 40–45), the Lautner and Meyer testimony was admissible and they were clearly qualified to authenticate these documents. We note, however, that

other witnesses (Brnek, R. 458; Czarnowski, R. 338), as well as documents of the Party itself (*e. g.*, Gov't. Exs. 53 and 54), amply proved the role of these writings as an integral part of the Party's program.

V

THE TRIAL COURT CORRECTLY INSTRUCTED THAT THE TEACHING AND ADVOCACY CHARGED IN THE INDICTMENT REFERS TO THE TEACHING AND ADVOCACY OF THE COMMUNIST PARTY

In a novel and highly unrealistic argument, petitioner complains (Br. 75–76) of the instruction (R. 577) that, before it could convict, the jury must find "that the Communist Party of the United States was an organization which taught and advocated" the violent overthrow of the Government. The instruction, petitioner says, should have required a finding, not as to the Party as such, but that "a majority, or at least a substantial proportion," of the Party's members engaged in such teaching and advocacy. This is said to follow from the fact that the statute and the indictment both refer to membership in a "society, group, and *assembly of persons who* teach and advocate * * *."

The argument has little weight even on the arid semantic premises which alone are thought to support it. It seems obvious that since it followed immediately upon the words "society, group, or *assembly of persons*", the pronoun "who" rather than "which" was a linguistically appropriate one to precede "teach, advocate," etc. But petitioner's wholly unworkable

conclusion—that "a majority, or at least a substantial proportion" of the individual members must be proved to have engaged in the proscribed teaching or advocacy to bring the organization within the described class—hardly follows from this grammatical fact. Indeed, the kind of mechanically verbal reasoning petitioner proposes from the words "persons who" would not lead so much to his position as to the even more patently absurd proposition that the Government must prove that *all* members of the organization are "persons who" teach or advocate violent overthrow of the Government.

If either of these possibilities actually represented a fair or sensible reading of the statute, it would follow that probably every conviction under the Smith Act, from *Dennis* on, has been erroneous. For the nature of the organization has been in issue each time. And the Government has never undertaken, or been required to undertake, the manifestly impossible and pointless task of proving that all—or, as petitioner would have it, "a majority, or at least a substantial proportion"—of the members engaged in the teaching and advocacy in question.

If grammar alone leaves some substance in petitioner's argument, legislative history dispels it. In the Senate Report on the bill which contained the provisions known as the Smith Act, the portion of interest here said (S. Rep. No. 1796, 76th Cong., 3d sess., p. 2):

> Section 2 makes it unlawful for any person to * * * organize any society or group (or

> knowing the purposes thereof to affiliate with any such society or group) *which advocates,* the overthrow or destruction by force or violence * * *. [Emphasis added.]

The Conference Report (H. Rep. No. 2683, 76th Cong., 3d sess., p. 8) referred identically to the organizations in question as being "any society or group * * * *which* advocates * * *."

Thus, it is clear that petitioner's argument rests on the merest linguistic happenstance, and that the phrase "society, group or assembly of persons *who*" advocate was meant to be identical in effect and interchangeable with "society or group * * * *which* advocates * * *." It is equally clear that Congress was concerned with the teaching and advocacy of the organizations as such, to be determined in the only way such teaching and advocacy can be found and characterized—namely, through the teaching and advocacy of the leaders, policy-makers, and teachers who lay down the programs to be learned and followed by all the members.

The trial court's instructions followed this sensible and workable construction of the statute. Petitioner's alternative, which would pervert its meaning and prevent its functioning, was properly rejected.

VI

SECTION 4 (F) OF THE INTERNAL SECURITY ACT OF 1950 DOES NOT AMEND THE "MEMBERSHIP CLAUSE" OF THE SMITH ACT SO AS TO EXEMPT MEMBERSHIP WITH KNOWLEDGE AND INTENT IN THE COMMUNIST PARTY

This point is discussed in our brief in *Scales* v. *United States*, No. 29, this Term, pp. 27, 51–56, and we respectfully refer to that material in answer to the identical problem raised by the petitioner (Pet. Br. 76–84) in the instant case.

VII

THE CONGRESSIONAL FINDINGS IN THE INTERNAL SECURITY ACT OF 1950 AND THE COMMUNIST CONTROL ACT OF 1954 DID NOT PRECLUDE A FAIR TRIAL

This final question, too, is common to this case (see Pet. Br. 84–86) and *Scales*, No. 29, and we again refer to our brief in the latter (pp. 77–78) for a statement of the Government's position.

CONCLUSION

It is respectfully submitted that the judgment of the Court of Appeals should be affirmed.

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SEPTEMBER 1956.

APPENDIX

EVIDENCE OF THE COMMUNIST PARTY'S UNLAWFUL PURPOSES

The uncontroverted evidence establishes that in July 1945, at a special national convention held in New York City, the Communist Party of the United States reconstituted itself "upon the principles of scientific socialism, Marxism-Leninism" (R. 205, 206, 263; Gov't. Ex. 45). In order to implement the reconstitution and revitalize its members, the Party instituted an intensive program of Marxist-Leninist education nationally as well as in the Illinois District (R. 41–43, 162, 435, 436, 450).

The witness Lautner,[17] whose Communist Party career closely paralleled that of the petitioner, testified

[17] Lautner joined the Party in 1929 and with the exception of his wartime service in the Military Intelligence Branch of the United States Army, from 1942 until 1945, devoted his full-time efforts to Party work until his expulsion in 1950. During the greater part of his Party career he was a high-ranking paid functionary. He attended the National Training School in 1930 and 1941 (R. 133, 143); was a District Organizer in West Virginia from 1936 to 1940 (R. 140–141); taught Party classes from 1946 to 1948 (R. 162); attended the National Convention of the Party in 1936, 1938, 1940, 1942, 1945, and 1948 (R. 150–151); was the head of the New York State Review Commission from 1947 until 1950; and was a member of the National Review Commission from 1948 until 1950 (R. 161). In September 1950, he volunteered his services to the Department of Justice. Since January 1951, the Department of Justice has called upon his services on numerous occasions with regard to matters relating to the Communist Party and its members. In connection with his service he has been remunerated at the rate of twenty-five dollars a day plus an addi-

that the principles of Marxism-Leninism are to be found in the writings of Marx, Engels, Lenin, and Stalin. They constitute the theory and tactics of the proletarian revolution in general and of the dictatorship of the proletariat in particular (R. 205–206; Gov't. Ex. 19). Some of the books in which the principles of Marxism-Leninism are to be found are *Foundations of Leninism* by Stalin (Gov't. Ex. 19), *Problems of Leninism* by Stalin (Gov't. Ex. 21) *State and Revolution* by Lenin (Gov't. Ex. 23) and *History of the Communist Party of the Soviet Union (Bolshevik)* (R. 206). They are also to be found in the writings of the leaders of the Communist Party of the United States, as in William Z. Foster's *On The Struggle Against Revisionism* (Gov't. Ex 48; R. 206).[18]

The following excerpts from these exhibits are particularly pertinent:

> *Foundations of Leninism*, Gov't. Ex. 19:
>
> Some say that Leninism is the application of Marxism to the peculiar conditions of the situation in Russia. This definition contains a particle of truth, but not the whole truth by any means. Lenin, indeed, applied Marxism to Russian conditions and applied it in a masterly way. But if Leninism were only the applica-

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tional nine dollars a day per diem on the days when he was away from his home station.

[18] Lautner also testified that in these books and pamphlets there are passages which, more than others, establish these basic principles, specifically pp. 9, 10, 20–23, 44–46, 48, 50, 54–57, 103, 109, and 115 in *Foundations of Leninism* (Gov't. Ex. 19); pp. 9, 10, 19, 20, 23, 33, 52, 53, in *State and Revolution* (Gov't. Ex. 23); pp. 56–57 in *On The Struggle Against Revisionism* (Gov't. Ex. 48); pp. 167–168, 353–355 in *History of the Communist Party of the Soviet Union* (Gov't. Ex. 22); pp. 19–22, 25, and 26 in *Problems of Leninism* (Gov't. Ex. 21).

tion of Marxism to the peculiar situation in Russia it would be a purely national and only a national, a purely Russian and only a Russian, phenomenon. We know, however, that Leninism is not merely a Russian, but an international phenomenon rooted in the whole of international development.

* * * * *

What, then, in the last analysis, is Leninism?

Leninism is Marxism of the era of imperialism and of the proletarian revolution. To be more exact, Leninism is the theory and tactics of the proletarian revolution in general, the theory and tactics of the dictatorship of the proletariat in particular. [Pp. 9–10.]

* * * * *

First dogma: concerning the conditions for the seizure of power by the proletariat. The opportunists assert that the proletariat cannot and ought not to take power unless it constitutes a majority in the country. No proofs are adduced for there are no proofs, either theoretical or practical, than can justify this absurd thesis [*id.*, p. 22].

"Today," said Lenin "in 1917" in the epoch of the first great imperialist war, this qualification made by Marx is no longer valid. Both England and America, the greatest and last representatives—in the whole world—of Anglo-Saxon "liberty," in the sense that militarism and bureaucracy were absent, have slid down entirely into the all-European, filthy, bloody morass of military—bureaucratic institutions to which everything is subordinated and which trample everything underfoot. Today, both in England and America the preliminary condition for every real people's revolution is the smashing, the destruction of the "ready made state machine" (brought in those countries between 1914 and 1917, to general "European"

perialist perfection).. (Selected Works, Vol. VII, p. 37.)

In other words, the law of violent proletarian revolution, the law of the smashing of the bourgeois state machine as a preliminary condition for such a revolution, is an inevitable law of the revolutionary movement in the imperialist countries of the world.

Of course, in the remote future, if the proletariat is victorious in the most important capitalist countries, and if the present capitalist encirclement is replaced by a socialist encirclement, a 'peaceful' path of development is quite possible in certain capitalist countries, whose capitalists, in view of the 'unfavorable' international situation, will consider it expedient 'voluntarily' to make substantial concessions to the proletariat. But this supposition applies only to a remote and possible future. With regard to the immediate future, there is no ground whatsoever for this supposition.

Therefore, Lenin is right in saying:

The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a new one * * *(Selected Works Vol. VII, p. 124) [*id.*, p. 56].

Problems of Leninism, Gov't. Ex. 21:

Can such a radical transformation of the old bourgeois system of society be achieved without a violent revolution, without the dictatorship of the proletariat?

Obviously not. To think that such a revolution can be carried out peacefully within the framework of bourgeoise democracy, which is adapted to the domination of the bourgeoise, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution [pp. 19–20].

* * * * *

The scientific concept, dictatorship, means nothing more nor less than power which directly rests on violence, which is not limited by any laws or restricted by any absolute rules * * * Dictatorship means—note this once and for all Mssr. Cadets—unlimited power, resting on violence and not on law. During civil war, victorious power can only be dictatorship. (Collected Works Vol. XXV, pp. 441 and 436, Russian Edition)

But, of course, the dictatorship of the proletariat does not merely mean violence, although there is no dictatorship without violence [*id.*, p. 25].

State and Revolution, Gov't. Ex. 23, p. 20:

The replacement of the bourgeoise by the proletarian state is impossible without a violent revolution. The abolition of the proletarian state, i. e. of all states, is only possible through 'withering away' [p. 20].

* * * * *

Have these gentlemen ever seen a revolution? Revolution is undoubtedly the most authoritative thing possible. It is an act in which one section of the population imposes its will on the other by means of rifle, bayonets, i. e., by highly authoritative means and the victorious party is inevitably forced to maintain its supremacy by that fear which its arms inspire in the reactionaries [*id.*, p. 53].

History of the Communist Party of the Soviet Union, Gov't. Ex. 22, p. 355:

The history of the Party further teaches us that a party of the working class cannot perform the role of leader of its class, cannot perform its role as organizer and leader of the proletarian revolution unless it has mastered the advanced theory of the working class movement, the Marxist-Leninist theory.

The passages which have been quoted above by no means exhaust the documentation of the revolutionary

tenets of Marxism-Leninism which appear in the record of this case.

The Communist Party, according to the evidence, has as its final aim the destruction of the existing social order known in this historical period as "Imperialism." The United States is described by the Party as the leading imperialist country of the world, and the Party has as its objective the destruction of the Government of the United States through the proletarian revolution and the institution in its place of the dictatorship of the proletariat (R. 210–211).

Lautner testified that while attending the National Training School in 1941 he was given instructions concerning the strategy and tactics of the Party. He was taught that it is the position of the Party that strategy is the direction of the main blow during the present period, described as the era of "Imperialism." The era of imperialism covers the whole period of time beginning approximately at the turn of the century and continuing through the indictment period. The strategy of the Party during this entire period is to muster those forces in society that will bring about the fundamental change in the social order. Tactics on the other hand are methods of struggle and are subordinate to strategy. The Communist Party has changed its tactics on a number of occasions during its history. For example, in the period prior to 1935, the Party had a tactical line known as the United Front from below. In 1935 it changed to the United Front from above. From 1937 until June 1941, the tactic was identified as the Struggle Against Imperialist War. In June 1941, the tactic changed to one of an all-out United Front against the Fascists. After World War II the tactics changed again. Tactics in the Party will always change, but they are subordinate to the main strategy which does not

change. While the tactics change from time to time, the strategy is always directed toward the forcible overthrow and destruction of the present "Imperialist" Government and of its replacement by the "dictatorship of the proletariat" (R. 296-299)."

As previously pointed out (*supra*, p. 50), in accordance with the policy established at the time of the reconstitution of the Party in 1945, an educational program implementing the decision to return to the basic teachings of Marxism-Leninism, was put into effect nationally as well as in the State of Illinois. During 1946, 1947, and 1948, Lautner taught classes in the Party schools in New York City (R. 162). Among the courses he taught were "Marxism-Leninism," "Political Economy," "Party Organization," "Party Structure," and "Party Discipline." The texts used in connection with his courses were in the main the same as those used by the instructors at the 1941 National Training School and included the pamphlets in the Little Lenin Library series, such as *Foundations of Leninism* (Gov't. Ex. 19) and *Problems of Leninism* (Gov't. Ex. 21), as well as *History of the C. P. S. U.* (Gov't. Ex. 22). He also used the *Program of the Communist International* and *On The*

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[19] One of the courses taught by the petitioner at the full-time Party School at Lake Ivanhoe, Wisconsin, in July, 1947, was "Strategy and Tactics." Among the books assigned for study by the students were *Foundations of Leninism* (Gov't. Ex. 19) and *History of the C. P. S. U.* (Gov't. Ex. 22). Specifically assigned was Chap. VII in *Foundations of Leninism* entitled "Strategy and Tactics." In explaining the role of tactics in relation to overall strategy, Stalin in that book states at page 104:

"The revolutionary will accept a reform in order to use it as an aid in combining legal work with illegal work, to intensify, under its cover, the illegal work for the revolutionary preparation of the masses for the overthrow of the bourgeoisie."

Struggle Against Revisionism (Gov't. Ex. 48; R. 163) in the courses he taught.

During this period, the witness Cummings,[20] who was a Party functionary in the Cleveland, Ohio, area, attended the Midwest National Training School of the Party which was held at Chicago, Illinois, in December 1945 (R. 435, 436). This school lasted seven days and was one of a number of National Training Schools set up throughout the country. The program of the school was based on such basic Marxist-Leninist classics, as the *Communist Manifesto, State and Revolution, Foundations of Leninism,* and *Problems of Leninism.*

The evidence demonstrates not only that there were formal schools at which the principles of Marxism-Leninism were taught (R. 41, 42, 337–338, 346–347, 450, 453, 454) but that educational discussions based on Marxist-Leninist classics were made an integral part of the activities of the Party clubs in Illinois. The Party members were required to study the "classics." In order to follow the day-to-day tactical line of the Party it was necessary that they subscribe to the *Daily Worker,* the official newspaper of the Party (R. 41–43, 336–338). They were also required to purchase and study *Political Affairs,* "a magazine dedicated to the theory and practice of Marxism-Leninism" (Gov't. Ex. 93) which was published monthly.

In accordance with the policy of the reconstituted Party, a full time Party school was held in July 1947 at Lake Ivanhoe, Wisconsin (R. 454; Gov't. Ex. 54). The petitioner himself was one of the instructors at

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[20] Cummings was a member of the Party from 1943 to 1949. He joined the Party at the request of the FBI and appeared as a witness in the *Dennis* case.

this school which extended over a period of seven days. The courses of instruction covered such subjects as "The Method of Marxism," "Introduction to Political Economy," "The Communist And The Trade Unions," "The Role of American Imperialism," "The Threat of Fascism," "The Danger of War," "The National and Negro Question," "Strategy and Tactics" and "The History and Role of the Party," the latter two courses being conducted by the petitioner (R. 457–458; Gov't. Ex. 54). A study of the schedule of classes of the school and an outline entitled "Democratic Centralism" shows that the subject matter of the classes was based entirely on a Marxist-Leninist interpretation (Gov't. Exs. 54, 55).

At the school, emphasis was placed on the principle of Democratic Centralism (Gov't. Exs. 54, 55) which "is the basic structure of the Communist Party of the United States." Democratic Centralism is defined in terms of "what it results in and aims toward." It "must be a real synthesis, a fusion of centralism and proletarian democracy. This fusion can be achieved only on the basis of continuous common action, continuous common struggle of the entire Party organization as a whole. Centralization in a Communist Party means not formal mechanical centralization, but centralization of Communist Action, i. e., the formation of a leadership that is strong, endowed with striking power and flexible (Thesis of Third Congress of Communist International, 1921)." (Gov't. Ex. 55).[21] It was at this school that the peti-

[21] See also in Gov't. Ex. 55 at p. 5. *Centralism and Discipline*, p. 5:

"How important is centralism and discipline to a communist party? We will leave the answer of this question to Comrade Lenin who outlined the main form of the Bolshevik Party which succeeded in overthrowing capitalism, maintaining itself against

tioner, in his capacity as a high Party functionary and official Party teacher, instructed in the lessons to be learned from the Russian Revolution (R. 459–460); taught the important role played by strikes in helping to foment revolution (R. 460); explained the difference between the American Revolution and a proletarian revolution modelled on the Russian Revolution (R. 460–461); stressed the importance of Party discipline which required that members be prepared to make every sacrifice, even to giving up their lives to insure the success of the movement (R. 461); and informed his students that, although the Party said it approached the problem of acquiring power with the thought of avoiding bloodshed, the capitalists who control our country would not relinquish power without bloodshed so that the Party is prepared to and intends to spill blood necessary to achieve its objectives (R. 461–462).

The record contains further evidence of the Party's continued adherence to the revolutionary tenets of Marxism-Leninism. In September 1947, John Gates, a member of the National Committee of the Party

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a hostile and attacking capitalist world and is now engaged in the building of Socialism. He said that:

'The strictest centralization and discipline are required in the political party of the proletariat * * * in order that the organizational role of the proletariat (and this is its principal role) may be fulfilled correctly, successfully, victoriously * * *. Whoever in the least weakens the iron discipline of the Party of the proletariat * * * actually aids the bourgeoisie against the proletariat.' (Left Wing Communism, Ch. V; also to be found in Selected Works, Vol. X at page 84)."

And see *id.*, p. 6:

"In practice exactly what does centralism consist of? Expressed simply, it consists of submission by the minority to the majority; and leading Party work from a center with lower committees and bodies subordinated to higher conventions and committees."

and Editor of the *Daily Worker*, spoke at a Party meeting held in honor of the 100th Anniversary of Marxism. He traced the history of the Communist movement from the time of Marx and Engels to the present, pointing out that Communism is a science. He stated that hard work and not prayer is necessary for the Party to reach its objectives and referred to the fact that Lenin wrote that it would take many years of hard work to establish proletarian governments in the world. Gil Green, Chairman of the Communist Party of Illinois and later a member of the National Committee of the Party (Gov't. Ex. 93), remarked at the same meeting that he hoped to celebrate the next anniversaries of Marxism in the Soviet Republic of the United States (R. 350–352). Again, in November 1947, Gil Green in speaking at a State Convention of the Communist Party of Illinois emphasized the necessity of educating the Party members in the principles of Marxism-Leninism (R. 354).

In November 1950, the petitioner himself was the principal speaker at a meeting held to celebrate the 33d anniversary of the Russian Revolution (R. 362–363). Again, in June 1951, the petitioner spoke at a Party meeting. Referring to the Bible story in which David slew Goliath, petitioner remarked that "our sling shots are not as big as the weapons our enemies are using, but we will win at the end in spite of it." At the conclusion of the meeting, all present arose and sang the "Internationale" (R. 371–372).

Documentary evidence of the Party's continued adherence to the principles of Marxism-Leninism is to be found in the publication *Political Affairs* for February 1951 (Gov't. Ex. 93) and the various editions of *Party Forum*, the official organ of the Communist Party of Illinois (Gov't. Exs. 57, 58, 59, 60, 64, 66).

Similarly, the Constitution of the Communist Party, Article IV, Section 10, directs that "All members shall strive to acquire an understanding of the fundamentals of Marxism" (Gov't. Ex. 45). And in *A History of the Communist Party of the United States* (Defense Ex. 3) William Z. Foster, at page 521, directs that "Above all, the Party must strengthen its grasp of Marxism-Leninism."